

## Department of Veterans Affairs

## §21.1030

(i) VA. The term VA means the United States Department of Veterans Affairs.

(Authority: 38 U.S.C. 301)

[64 FR 23770, May 4, 1999, as amended at 72 FR 16964, Apr. 5, 2007; 74 FR 14665, Mar. 31, 2009]

### §21.1030 Claims.

(a) *Claim for educational assistance.* (1) The first time an individual claims educational assistance administered by VA for pursuit of a program of education, he or she must file an application for educational assistance using a form the Secretary prescribes for that purpose.

(2) If an individual changes his or her program of education or place of training after filing his or her first application for educational assistance, he or she must file an application requesting the change of program or place of training using a form the Secretary prescribes for that purpose.

(3) A servicemember must consult with his or her education service officer before filing an application for educational assistance, whether it is the first application or an application to request a change of program or place of training.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 501(a), 3034(a), 3241(a), 3323(a), 3471, 3513, 5101(a))

(b) *Filing a claim for educational assistance to pay for a licensing or certification test.* To receive educational assistance to pay for a licensing or certification test, an individual must file a claim for educational assistance.

(1) If the claim is the first claim for educational assistance administered by VA, the individual must file an application for educational assistance using a form the Secretary prescribes for that purpose and must include the information described in paragraphs (b)(2)(i) through (b)(2)(vi) of this section.

(2) If the claim is the second or subsequent claim for educational assistance, the claim must include:

- (i) The name of the test;
- (ii) The name and address of the organization or entity issuing the license or certificate;

(iii) The date the claimant took the test;

(iv) The cost of the test;

(v) A statement authorizing release of the claimant's test information to VA, such as: "I authorize release of my test information to VA"; and

(vi) Such other information as the Secretary may require.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 501(a), 3034(a), 3241(a), 3323(a), 3471, 3513, 5101(a))

(c) *Filing a claim for educational assistance to supplement tuition assistance provided under a program administered by the Secretary of a military department.* To receive *tuition assistance top-up* as defined in §21.4200(hh), an individual must file a claim for educational assistance.

(1) If the claim is the first claim for educational assistance administered by VA, the individual must file an application for educational assistance using a form the Secretary prescribes for that purpose.

(2) If the claim is the second or subsequent claim for educational assistance, the claimant may submit a statement that he or she wishes to receive tuition assistance top-up.

(3) The claimant must also submit a copy of the form(s) that the military service with jurisdiction requires for tuition assistance and that had been presented to the educational institution, covering the course or courses for which the claimant wants tuition assistance top-up. Examples of these forms include:

(i) DA Form 2171, Request for Tuition Assistance-Army Continuing Education System;

(ii) AF Form 1227, Authority for Tuition Assistance-Education Services Program;

(iii) NAVMC 10883, Application for Tuition Assistance, and either NAVEDTRA 1560/5, Tuition Assistance Authorization or NAVMC (page 2), Tuition Assistance Authorization;

(iv) Department of Homeland Security, USCG CG-4147, Application for Off-Duty Assistance; and

(v) Request for Top-Up: eArmyU Program.

(4) The claimant must also provide to VA the following information, to the

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extent it is not contained on any form filed under paragraph (c)(1) or (c)(3) of this section:

- (i) His or her name;
  - (ii) His or her Social Security number;
  - (iii) The name of the educational institution;
  - (iv) The name of the course or courses for which the claimant wants educational assistance;
  - (v) The number of the course or courses;
  - (vi) The number of credit hours for each course;
  - (vii) The beginning and ending date of each course;
  - (viii) The cost of the course or courses; and
  - (ix) If the claimant doesn't want to receive the full amount of that cost not met by the Secretary of the military department concerned, the portion that the claimant wishes to receive.
- (5) If the claimant's military department uses an electronic tuition assistance application process with electronic signatures, VA will accept an electronic transmission of the approved tuition assistance application directly from the military department concerned on behalf of the claimant if—

- (i) The electronic tuition assistance application indicates the servicemember's intent to claim tuition-assistance top-up; and
- (ii) The information described in paragraph (c)(4) of this section is included in the electronic application.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 501(a), 3034(a), 3241(a), 3323(a), 3471, 3513, 5101(a))

(The Office of Management and Budget has approved the information collection provisions in this section under control numbers 2900–0074, 2900–0098, 2900–0099, 2900–0154, 2900–0695, and 2900–0698)

[72 FR 16964, Apr. 5, 2007, as amended at 74 FR 14665, Mar. 31, 2009]

### § 21.1031 VA responsibilities when a claim is filed.

(a) *VA will furnish forms.* VA will furnish all necessary VA claim forms and instructions, and, if appropriate, a description of any supporting evidence

required upon receipt of an informal claim.

(Authority: 38 U.S.C. 5102)

(b) *VA has a duty to notify claimants of necessary information or evidence.* (1) Except when a claim cannot be substantiated because there is no legal basis for the claim, or undisputed facts render the claimant ineligible for the claimed benefit, when VA receives a complete or substantially complete application for educational assistance provided under subpart C, D, G, H, K, L, or P of this part VA will—

- (i) Notify the claimant of any information and evidence that is necessary to substantiate the claim; and
- (ii) Inform the claimant which information and evidence, if any, the claimant is to provide to VA and which information and evidence, if any, VA will try to obtain for the claimant.

(2) The information and evidence that VA, pursuant to paragraph (b)(1) of this section informs the claimant that the claimant must provide, must be provided within one year from the date of the notice. If VA does not receive such information and evidence from the claimant within that time period, VA may adjudicate the claim based on the information and evidence in the file.

(3) If the claimant has not responded to the request within 30 days, VA may decide the claim before the expiration of the one-year period prescribed in paragraph (b)(2) of this section, based on all the information and evidence in the file, including information and evidence it has obtained on behalf of the claimant. If VA does so, however, and the claimant subsequently provides the information and evidence within one year of the date of the request, VA must readjudicate the claim. If VA's decision on a readjudication is favorable to the claimant, the award shall take effect as if the prior decision by VA on the claim had not been made.

(4) If VA receives an incomplete application for benefits, it will notify the claimant of the information necessary to complete the application and will defer assistance until the claimant submits this information. If the information necessary to complete the application is not received by VA within one